THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 24019 of 2006.

DATED: 18-11-2006

Between:

The Bhavannarayana Nagaravasula Abhivrudhi
Seva Samithi, Bapatla, Guntur District, represented by its
Secretary, Mandadi Anjaneyulu.

…Petitioner

and

The Deputy Commissioner, HR & CE,
Guntur District and others.

…Respondents.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 24019 of 2006.

Oral order:

The writ petition is misconceived.

The petitioner in substance seeks a direction to the respondents 1, 2 and 4 to issue orders of allotment of an extent of Ac.4-00 in Sy.No.69/2 and 70 situated at 24th Ward of Bapatla Town to the members of the petitioner's society who are asserted and admitted to be encroachers of the land belonging to Sri Bhavannarayana Swamy Temple, Bapatla, Guntor District.

According to the petitioner, it was earlier called the Drivers Colony comprising of 26 members. These members are pleaded to have occupied during 1983-84, land belonging to the Temple for their residences and also to have constructed houses thereon. Each of the members of the earlier Drivers Colony is stated to have occupied 3 cents of the Temple land. Later other colleagues also joined the bandwagon of encroachment. According to the petitioner, some of them are poor and homeless, some are cultivators, some daily wage earners, and few are also Government employees. It also asserted that the houses constructed in the land belonging to the Temple have been assessed to municipal taxes by Bapatla Municipality.

While so it is stated, two individuals Sri Arani Srinivasa Rao and G.Venkateswara Rao filed LGOP No. 2 of 1990 before the District Judge, Guntur under Section 7A(1) of the Andhra Pradesh Land Grabbing (Prohibition) Act to declare the respondents as the land grabbers and for their eviction from the land and for delivery of the vacant possession to them. The said petition was allowed on 7-6-

1996 exparte.

The petitioner also states that on 27-9-1993 the Trustee committee of the Temple passed a Resolution that the land in Sy.No.69/2 and 70 of an extent of Ac.6-62 cents was occupied by the residents of Lorry Workers Colony, which was conveyed to them at the prevailing market rate. Thereupon, it would appear, the 1st respondent called for the remarks of the Trust Board and pursuant thereto a report was sent on 1-12-1993 by the Executive Officer of the Temple that he had obtained a market value certificate dated 19-11-1993 from the Sub-Registrar, Bapatla. According to the petitioner, the Trustee committee agreed to sell the land of the temple to the occupiers. However, since the 1st respondent has not taken any decision on the representations made by the occupiers from 1994 onwards and also by the petitioners' society during 2001 and 2002, the writ petition is filed.

The petitioners assert that it is ready and willing to pay the market price and that the 1st respondent is obligated in law to alienate Devasthanam's land to them. Another reason for the writ petition is that the petitioner apprehends efforts by the 4th respondent to pursue eviction of the occupiers with the 1st respondent under the provisions of Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. The petitioner as an interim measure seeks stay of all further proceedings including eviction under proceedings to be initiated by respondents 1, 2 and 4.

The property admittedly belongs to the 4th respondent-Devasthanam. The occupiers are indisputably encroachers of Devasthanam property. If this be so, the 4th respondent as well as respondents 1 to 3 have a statutory obligation to take steps for eviction of the encroachers, failing which they could be liable for disciplinary action for abdication of statutory responsibility.

The learned counsel appearing on behalf of the petitioner has not placed before this court any legal provision qua which the petitioner has a legal right to expect alienation of the Temple's land for their members or a corollary obligation of respondents 1 to 4 to order such alienation. The property belongs to the Devasthanam and respondents 1 to 4 are jointly and severally the Trustees or administrators of the Devasthanam lands in question. They have a limited and fiduciary role to perform as either the Commissioner of Endowments or in any other capacity including as a manager of the Temple and that role obligates them to relentlessly and assiduously take steps to remove the encroachments. Alienation of Devasthanam's land to encroachers is not a part of the official functions of respondent 1 to 4. The petitioner has failed to make out any case for grant of relief in this writ petition.

The writ petition is extravagant and misconceived and is accordingly dismissed at the stage of admission. There shall be no order as to costs.

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GODA RAGHURAM, J

18th November, 2006.
GRR